

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

<b>TARA CAPPS, as administrator of the ESTATE OF MARK CAPPS,</b>	)	
	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>No. 3:23-cv-001141</b>
	)	
<b>METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, <i>et al.</i>,</b>	)	<b>Chief Judge Crenshaw</b>
	)	<b>Magistrate Judge Newbern</b>
	)	
	)	<b>JURY DEMAND</b>
<b>Defendants.</b>	)	

**ASHLEY COON'S MOTION FOR SUMMARY JUDGMENT**

Defendant Sergeant Ashley Coon moves the Court to grant him qualified immunity and dismiss Plaintiff's 42 U.S.C. § 1983 excessive force claim against him under Federal Rule of Civil Procedure 56.

For decades, Supreme Court and Sixth Circuit precedent has shielded officers from excessive force claims when they use deadly force against people suspected of violent crimes who point guns at them. That is what happened in this case. Sgt. Coon was part of a team tasked with arresting Mark Capps, a man accused of violent crimes. When Mr. Capps opened his door and pointed a gun at Sgt. Coon and his teammates, Sgt. Coon reasonably used deadly force to prevent serious injury or loss of life. Sgt. Coon's use of force did not violate Mr. Capps's Fourth Amendment rights, and he did not transgress clearly established constitutional caselaw. Thus, the Court should grant his motion for summary judgment. In support of this motion, Sgt. Coon invites the Court to consider the accompanying memorandum of law, statement of undisputed material facts, and the following exhibits:

1. Officer Lancaster Body Worn Camera Footage

2. Sgt. Coon Declaration
3. Timothy Brewer Declaration
4. Jason Rader Declaration
5. Sgt. Coon Body Worn Camera Footage
6. Timothy Brewer Body Worn Camera Footage
7. Jason Rader Body Worn Camera Footage
8. Excerpts from TBI Investigation
9. Officer Heimbach Body Worn Camera Screen Shot
10. Arrest Warrants
11. Declaration of Deputy Chief Chris Gilder.

Respectfully submitted,

THE DEPARTMENT OF LAW OF THE  
METROPOLITAN GOVERNMENT OF  
NASHVILLE AND DAVIDSON COUNTY  
WALLACE W. DIETZ (#09949)  
DIRECTOR OF LAW

/s/ John W. Ayers

MELISSA ROBERGE (#26230)

SENIOR COUNSEL

John W. Ayers (#37494)

ASSISTANT METROPOLITAN ATTORNEY

Metropolitan Courthouse, Suite 108

P.O. Box 196300

Nashville, Tennessee 37219

(615) 862-6341

[melissa.roberge@nashville.gov](mailto:melissa.roberge@nashville.gov)

*Counsel for Ashley Coon and the Metropolitan  
Government*

**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing has been delivered via the CM/ECF electronic filing system to the following on the 6th day of February 2024:

Kyle Mothershead  
2901 Dobbs Ave.  
Nashville, TN 37211  
(615) 429-4717  
kyle@relentlesslaw.com

Bryan Moseley  
237 Castlewood Drive, Suite D  
Murfreesboro, TN 37129  
(615) 254-0140  
bryan.moseley@moseleylawfirm.com

/s/ John W. Ayers  
John W. Ayers